

Date of decision: 20-4-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J
(20-4-1996)

Mr. N. R. Tandel for the petitioner.
Ms. Sejal Mandavia for the respondents.

ORAL JUDGMENT:

Heard the learned counsel for the parties.

The petitioner who is a teacher in the District

Panchayat, Valsad, has filed the writ petition for the relief that annexure-G dated 2-1-1973 be quashed and set aside and his date of birth be treated as 20-9-1932. It is not in dispute that in the service record of the petitioner his date of birth is recorded to be 1-2-1929. He entered service of the District Panchayat on 12-1-1965. He disputed his date of birth to be 1-2-1929 even prior to entry in the service. He made application for correction of his date of birth on 27-5-1955. The prayer has been made for correction of the recorded date of birth in the service record, but it was turned down under order dated 30-10-1986 on the ground that after 1-4-1970 the District Panchayat has no authority or power to correct the recorded date of birth of primary teachers.

2. In support of his claim the petitioner filed document annexure-F - certificate issued by the Sub Divisional Magistrate, Navsari dated 22-11-1955. That certificate was issued before the petitioner joined service, and the date of birth of the petitioner was certified to be 20th September, 1932. It was issued on the basis of the proof submitted by the petitioner, namely, (a) the answers given by the applicant on the form of questionnaire; (b) birth extract issued by the Mahalakari Gandevi; and (c) affidavit. The petitioner has disputed the date of birth which is recorded in his educational certificates even earlier to entry in service. In the presence of the certificate issued by the Sub Divisional Magistrate, Navsari, which is not controverted by the respondents, I do not find any justification in the action of the respondents to say that his date of birth cannot be corrected.

3. The petitioner had requested for correction of date of birth prior to 1-4-1970. Having taken into consideration all these facts I am satisfied that the petitioner has been able to make out a case for correction of his date of birth.

4. In the result this writ petition succeeds and the same is allowed. The order annexure-K dated 30th October, 1986 of the Taluka Development Officer, Gandevi, is quashed and set aside. The respondents are directed to consider the case for correction of date of birth of the petitioner and pass appropriate orders within a period of two months from the date of receipt of certified copy of this order. The petitioner shall be entitled to all the consequential benefits flowing from correction of his date of birth. Rule made absolute in the aforesaid terms. No order as to costs.